

Enrolled House Bill 2200

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Consumer and Business Services)

CHAPTER

AN ACT

Relating to programs administering the state building code; amending ORS 455.148, 455.150, 460.005, 460.024, 460.035, 460.045, 460.055, 460.065, 460.075, 460.085, 460.125, 460.165, 480.515, 480.520, 480.525, 480.560, 480.570, 480.585, 480.595, 480.600, 480.605, 480.615, 480.630 and 480.647; repealing ORS 460.048 and 480.607; limiting expenditures; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 460.005 is amended to read:

460.005. As used in ORS 460.005 to 460.175, unless the context requires otherwise:

(1) "Alteration" means *[any]* a change or addition to *[the]* equipment, other than **the** ordinary repair or replacement of an existing part of the equipment.

(2) "Certified elevator inspector" means an employee or representative of a casualty insurance company or companies who has passed the required examination and has been issued a certificate of competency as an elevator inspector by the Department of Consumer and Business Services.

(3) "Elevator" means a hoisting and lowering mechanism equipped with a car or platform that moves in guides, and that serves two or more landings, and includes but is not limited to dumbwaiters, escalators, manlifts, platform hoists, vertical parking units for motor vehicles and moving walks.

(4) "Elevator contractor license" means an authorization issued by the department *[of Consumer and Business Services]* under ORS 460.005 to 460.175 for the licensee to engage in the business of installing, altering, repairing and maintaining elevators.

(5) "Installation permit" means a permit issued by the department for the installation, alteration or repair of an elevator.

[(5)] (6) "Minimum safety standards" means safety standards provided by ORS 460.005 to 460.175 or by rules adopted under ORS 460.005 to 460.175.

[(6)] (7) "Moving walk" means a power-driven, horizontal or inclined, or combination, passenger-carrying device, in which the passenger-carrying surface remains parallel to its direction of motion, and is uninterrupted.

[(7)] (8) "Operating permit" means a permit issued by the department for the operation of an elevator.

[(8)] (9) "Platform hoist" means a hoisting and lowering mechanism equipped with an open platform that moves in a substantially vertical direction and that travels a limited distance above or below a building floor or dock level.

[(9)] (10) "Provisional operating permit" means a permit issued by the department on the basis of a variance from the minimum safety standards under ORS 460.005 to 460.175.

(11) **“Temporary operation authorization” means an authorization issued by the department to operate an elevator for a specified period pending the issuance of an operating permit.**

SECTION 2. ORS 460.024 is amended to read:

460.024. The purpose of ORS 460.005 to 460.175 is to protect the health and safety of the people of Oregon from the danger of unsafe elevators. To accomplish this purpose the Legislative Assembly intends by ORS 460.005 to 460.175:

(1) To provide minimum safety standards for the installation, alteration, repair and maintenance of elevators to be operated in this state.

(2) To [assure] **ensure** compliance with minimum safety standards in installation, alteration, repair and maintenance of elevators to be operated within the state.

(3) To provide for the administration and enforcement of ORS 460.005 to 460.175 by the Department of Consumer and Business Services.

(4) To provide for defraying the cost of administering and enforcing ORS 460.005 to 460.175 by fees collected in connection with licensing, approval or rejection of plans, inspections, processing reports and issuing of elevator **installation permits and** operating permits.

SECTION 3. ORS 460.035 is amended to read:

460.035. (1) Fees are not required under ORS 460.005 to 460.175 to install, alter, repair, operate or maintain an elevator:

(a) Under the supervision of the United States Government.

(b) That is a nonpower-driven lifting device.

(c) Located in a private residence, except for initial installation.

(2) The owner or user of an elevator described in subsection (1) of this section may request that the Department of Consumer and Business Services inspect the elevator. If the department performs the inspection, the department, notwithstanding subsection (1) of this section, may collect the appropriate fee for performing the inspection.

(3) Pipes installed in an elevator hoistway prior to July 1, 1961, that do not convey gases or liquids that would endanger life if discharged into the hoistway need not be removed.

(4) ORS 460.005 to 460.175 do not apply to:

(a) Belt, bucket, scoop, roller or similar type material conveyors.

(b) Hoists for raising or lowering materials and that are provided with unguided hooks, slings and similar means for attachment to the materials.

(c) Material hoists used only to raise and lower building material in buildings under construction.

(d) Stackers that serve one floor only.

(e) Window-washing scaffolds.

(f) Nonpower-driven lifting devices.

(g) Amusement rides.

(h) Mine elevators.

(i) Elevators under the supervision of the United States Government.

(j) Elevators located in private residences, except for initial installation **permits and installation inspections.**

(k) Other elevators and equipment as provided by the department by rule.

SECTION 4. ORS 460.045 is amended to read:

460.045. A person may not:

(1) Engage in the business of installation, alteration, repair or maintenance of an elevator without an elevator contractor license issued under ORS 460.005 to 460.175 or 479.510 to 479.945.

(2) Install, alter, repair or maintain an elevator unless the person possesses a valid license issued under ORS 460.059 or 479.630 (6).

(3) Install, alter, or commence to install or alter, an elevator covered by ORS 460.005 to 460.175 unless the Department of Consumer and Business Services has [*approved the plans and pertinent data for the installation or alteration*] **issued an installation permit.**

(4) Permit or suffer an elevator to be operated, without a **valid temporary operation authorization or** current operating permit, on property that the person owns, controls, manages or supervises.

(5) Act or offer to act as a certified elevator inspector unless the person has a current certificate of competency as an elevator inspector issued by the department.

(6) Place in service a new or altered elevator without a current operating permit issued after a satisfactory acceptance inspection made by the department and satisfactory acceptance tests performed in the presence of a member of the department's staff of elevator inspectors.

(7) Place in service an elevator that has caused an injury to a person or persons unless permission has been obtained from the department.

SECTION 5. ORS 460.055 is amended to read:

460.055. (1) The Department of Consumer and Business Services shall give its decision within a reasonable time, not exceeding 30 days:

(a) Approving or rejecting plans and pertinent data for proposed elevator installations or alterations submitted for the department's examination.

(b) Issuing or denying an installation permit.

[(b)] (c) Issuing or denying a certificate of competency to applicants after examinations **for the certificate** have been taken *[therefor]*.

[(c)] (d) Issuing or denying **operating** permits for elevators inspected by a member of the department's staff of elevator inspectors or by a certified elevator inspector.

(2) Except as provided in subsection (3) of this section **operating** permits *[shall]* **may** not be issued **or renewed** for *[the operation of]* elevators failing to meet minimum safety standards *[as provided by ORS 460.005 to 460.175]*.

(3) A provisional operating permit may be issued for elevators whose safety standards vary from the minimum safety standards *[as provided in ORS 460.005 to 460.175, when]*, **if** in the opinion of the department no immediate hazard to health or safety exists. *[Such]* **The department shall issue** a provisional operating permit *[shall be issued]* for a specific period of time determined by the department at the time *[such]* **the** permit is granted. During the life of *[such]* **the** provisional operating permit, *[such]* **the** elevator *[shall]* **must** be brought into compliance with the safety standards found at variance at the time of the issuance of *[such]* **the** provisional permit.

(4) The department may adopt rules regarding installation permits and operating permits. The rules may include, but need not be limited to, rules for the use of standardized forms and terms and conditions for permit validity.

[(4)] (5) **The department shall issue** a certificate of competency as an elevator inspector *[shall be issued]* only to an individual who has passed an examination administered by the department for *[this]* **that** purpose and who is employed by the department or is a representative of a casualty insurance company or companies as an elevator inspector. The examination shall:

(a) Include questions, the answers to which are confined to matters *[which]* **that** will aid in determining the fitness and competency of the applicant for the intended service.

(b) Include a practical demonstration of manipulative skill directly related to the intended service, or the requirement of previous related experience in lieu *[thereof]* **of a practical demonstration.**

(c) Be maintained on file with the records of practical demonstrations for no less than three years and shall be produced by the department upon the request of any court, or the Electrical and Elevator Board, or a person with a legitimate interest.

[(5)] (6) If for a period of more than two years after the person is issued a certificate of competency as an elevator inspector, a holder of the certificate is not employed as an elevator inspector, the person *[shall not be]* **is not** entitled to renewal of the certificate. The person may qualify for issuance of a new certificate in the manner provided for in subsection *[(4)] (5)* of this section.

[(6) No plans or pertinent data for elevators to be installed or altered in this state shall be approved by the department unless the proposed elevator installation or alteration meets minimum safety standards as provided in ORS 460.085 (1).]

SECTION 6. ORS 460.065 is amended to read:

460.065. (1) A certified elevator inspector certificate of competency expires on December 31 of the year in which the certificate is issued or on a date established by rule of the Department of Consumer and Business Services.

(2) An elevator **installation permit or** operating permit expires on a date established by department rule.

(3) Except as provided in ORS 460.055, a holder of a valid elevator inspector certificate of competency or elevator operating permit who has complied with ORS 460.005 to 460.175 and the rules adopted under ORS 460.085 (1) is entitled to renewal at the expiration of the certificate or permit.

SECTION 7. ORS 460.075 is amended to read:

460.075. (1) Subject to the provisions of ORS chapter 183, the Department of Consumer and Business Services *[shall]* **may** cancel, revoke or suspend the **installation permit, temporary operation authorization or** operating permit for any elevator that does not comply with *[the]* minimum safety standards *[provided by ORS 460.005 to 460.175]*.

(2) Subject to the provisions of ORS chapter 183, the department may suspend or revoke the certificate of competency of any certified elevator inspector:

(a) Whom the department finds to be performing the work in a manner inconsistent with the intent and purposes of ORS 460.005 to 460.175.

(b) Who fails to file in advance with the department the name of any company for which the inspector performs an inspection.

(c) Who willfully violates ORS 460.005 to 460.175 or rules adopted under ORS 460.085 (1).

(d) Who deliberately falsified the application of the inspector for *[such]* **the** certificate or the inspection report made to the department.

(e) Who persistently fails to properly report to the department in writing regarding elevators inspected by the inspector.

SECTION 8. ORS 460.085 is amended to read:

460.085. (1) In accordance with the applicable provisions of ORS chapter 183, the Director of the Department of Consumer and Business Services, after consultation with the Electrical and Elevator Board, shall adopt reasonable rules:

(a) Establishing safety standards applicable to the installation of elevators.

(b) Establishing safety standards applicable to the alteration, repair or maintenance of elevators. The director may provide differing standards for elevators installed prior to July 1, 1961, and after July 1, 1961.

(c) Governing the issuance, renewal, suspension and revocation of permits and certificates of competency issued under ORS 460.005 to 460.175.

(d) Prescribing the time, place and circumstances under which permits, licenses and certificates of competency shall be exhibited for inspection.

(e) Governing the internal organization and procedure of the Department of Consumer and Business Services for administering and enforcing ORS 460.005 to 460.175.

(f) Prescribing, requiring and governing reports by the department's staff of elevator inspectors and certified elevator inspectors on elevators inspected by them.

(g) Establishing standards, criteria and intervals for the periodic inspection under ORS 460.125 of the various types of elevators.

(h) Establishing standards for the inspection of, and safety testing on, a new or altered elevator prior to placement of the elevator into service.

(i) Establishing *[fees under ORS 460.165 and any other]* reasonable fees, **in addition to the fees established by ORS 460.165, that** the department considers appropriate for the purpose of administering and enforcing ORS 460.005 to 460.175.

(2) In adopting rules under subsection (1) of this section, the director shall consider:

(a) Technological advances in the elevator industry.

(b) The practicability of following the standards under consideration, if adopted.

(c) The probability, extent and gravity of the injury to the public or property that would result from failure to follow the standards under consideration.

(d) Safety standards followed, proposed or approved by responsible members of the elevator industry.

(3) The sole purpose of subsection (1)(b) of this section is to provide reasonable safety for life and limb. In case of practical difficulty or unnecessary hardship, the director shall grant exceptions from the literal requirements or permit the use of other devices or methods than specified pursuant to subsection (1)(b) of this section when it is evident that reasonable safety is thereby secured.

(4) Any owner, user or other person aggrieved by the application by the department of the minimum safety standards established by the director pursuant to subsection (1)(b) of this section may appeal in the same manner and for the same reasons as provided under ORS 460.155.

SECTION 9. ORS 460.125 is amended to read:

460.125. (1) The Department of Consumer and Business Services shall:

(a) Except as provided in this subsection, periodically inspect each elevator to ascertain if the elevator is being operated and maintained in accordance with ORS 460.005 to 460.175. The department is not required to inspect an elevator if the department is notified in writing, by the employer of a certified elevator inspector, that inspection will be made by the certified inspector and a copy of the inspection report is filed with the department within 30 days of the date the elevator is due for inspection.

(b) Periodically check the authenticity, appropriateness and expiration date of elevator **operating** permits.

(c) Review with the Electrical and Elevator Board any appeals from the decisions of the inspectors.

(d) To the extent necessary to ensure safety, perform inspections and witness safety tests of new or altered elevators before the elevators are placed in service.

(2) Inspection reports provided to owners, users or other affected parties shall contain a notification of the right of appeal as provided in ORS 460.155.

(3) If the department finds that an elevator is **not** being operated [*otherwise than*] in compliance with ORS 460.005 to 460.175, **and the rules adopted under ORS 460.005 to 460.175**, the department may cause the elevator to be disconnected from the source of power for the elevator. The department shall give reasonable notice to the owner or operator prior to causing the elevator to be disconnected unless continued operation of the elevator would constitute an immediate hazard to the health and safety of persons.

SECTION 10. ORS 460.165 is amended to read:

460.165. (1) Subject to ORS 460.035 (1) and 460.085 (1), the Department of Consumer and Business Services may [*adopt fees that do not exceed the maximum fees described in this subsection for examining plans, for the inspection of elevators, for issuing or renewing an elevator contractor's license and for processing reports and issuing the permit for the operation of an elevator. Fees adopted by the department are subject to approval of the Oregon Department of Administrative Services. The maximum fees are:*] **collect the following fees:**

(a) For each year of an elevator contractor's license for each place of business operated by the applicant, \$195.

(b) For the submission of plans and other pertinent data **when required**, for each elevator, \$78.

(c) For each year of an inspection period for **an operating permit:**

(A) A dumbwaiter, sidewalk elevator, residential elevator, residential inclinator or subveyor, [~~\$52~~] **\$60.**

(B) An escalator, lowerator, manlift, stagelift, inclined elevator, platform hoist or moving walk, [~~\$78~~] **\$98.**

(C) A power-driven elevator with a four floor rise or under, [~~\$78~~] **\$88.**

(D) A power-driven elevator with over a four floor rise, but under a 10-floor rise, [~~\$98~~] **\$108.**

(E) A power-driven elevator with [~~over~~] **a** 10-floor rise **or over**, but under **a** 20-floor rise, [~~\$124~~] **\$134.**

(F) A power-driven elevator with a 20-floor rise or over, [~~\$147~~] **\$157**.

[(d) For a callback made on a mechanism listed in subsection (c) of this section and made by request or in the continued existence of a defect, \$52.]

(d) For a reinspection, \$75.

(e) For special inspections of hoisting or lowering mechanisms other than elevators, **or for inspections, testing, consultations, site visits or other services for which no fee is otherwise specified**, *[or under special agreement between the department and a person requesting a special inspection, \$55]* **\$75** per hour for travel and inspection time.

[(f) For the processing of each report of an inspection required under the provisions of ORS 460.005 to 460.175, \$20.]

[(g)] **(f)** For *[the inspection of an installation or alteration of]* an elevator **installation permit**, if the total cost of the installation or alteration is:

(A) \$1,000 or under, \$98.

(B) Over \$1,000 but under \$15,000, \$98 plus \$13 for each \$1,000 or fraction of \$1,000 by which the cost exceeds \$1,000.

(C) \$15,000 or over but under \$50,000, \$280 plus \$8 for each \$1,000 or fraction of \$1,000 by which the cost exceeds \$15,000.

(D) \$50,000 or over, \$553 plus \$3 for each \$1,000 or fraction of \$1,000 by which the cost exceeds \$50,000.

(2) *[Whenever]* **If** an owner or user of any elevator equipment fails to pay a fee required under this section within 90 days after the *[date of depositing written notification in the United States mail, postage prepaid, and addressed to the last-known address of said owner or user, the fee shall be considered delinquent and the fee shall be doubled unless the owner or user of the elevator equipment establishes to the satisfaction of the department justification for failure to pay. The court may award reasonable attorney fees to the department if the department prevails in an action for the collection of a fee required by this section. The court may award reasonable attorney fees to a defendant who prevails in an action for the collection of a fee required by this section if the court determines that the department had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.]* **billing date, the department may consider the fee delinquent and double the amount of the fee.**

SECTION 11. ORS 480.515 is amended to read:

480.515. As used in ORS 480.510 to 480.670, unless the context requires otherwise:

(1) "Alteration" means a change or addition to equipment, other than the ordinary repair or replacement of an existing part of the equipment.

[(1)] **(2)** "Board" means the Board of Boiler Rules created under ORS 480.535.

[(2)] **(3)** "Boiler" or "boilers" means:

(a) A closed vessel or vessels intended for the heating or vaporizing of liquids to be used externally to such vessel or vessels by the application of heat from combustible fuels, electricity or nuclear energy;

(b) Related appurtenances including but not limited to pressure piping directly connected and related to the safe operation of a boiler; and

(c) Pressure piping consisting of boiler or nonboiler external piping connected to a boiler, but not potable water nonboiler external piping.

[(3)] **(4)** "Boiler external piping" has the meaning given the term in the 1986 Pressure Piping Code B 31.1, adopted by the American Society of Mechanical Engineers.

[(4)] **(5)** "Certificate of competency" means a certificate issued under the provisions of ORS 480.565 (3).

[(5)] **(6)** "Department" means the Department of Consumer and Business Services.

[(6)] **(7)** "Director" means the Director of the Department of Consumer and Business Services.

[(7)] **(8)** *["Install, alter or repair"]* **"Installation permit"** means *[a written approval]* **a permit** issued by the department *[under ORS 480.630 authorizing]* **for** the installation, alteration or repair of a boiler or pressure vessel.

[(8)] (9) "Minimum safety standards" means the rules, regulations, formulae, definitions and interpretations for the safe construction, installation, operation and repair of boilers and pressure vessels either adopted by ORS 480.510 to 480.670 or adopted by the board, under ORS 480.510 to 480.670.

[(9)] (10) "Nonboiler external piping" has the meaning given the term in the 1986 Pressure Piping Code B 31.1, adopted by the American Society of Mechanical Engineers.

[(10)] (11) "Operating permit" means a [*written approval*] **permit** issued by the department authorizing the operation of a boiler or pressure vessel.

[(11)] (12) "Pressure vessel" means containers for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source, or any combination thereof.

[(12)] (13) "Related appurtenances" means any equipment instrumental to the safe operation of a boiler or pressure vessel.

[(13)] (14) "Shop inspection" means [*the inspection and testing, to determine the meeting of minimum safety standards, of boilers and pressure vessels being manufactured, altered, repaired or installed or in the process of manufacture, alteration, repair or installation in the shop or on the job site.*] **an inspection at a boiler or pressure vessel manufacturing, construction or repair facility.**

(15) "**Temporary operation authorization**" means **an authorization issued by the department to operate a boiler or pressure vessel for a specified period pending the issuance of an operating permit.**

SECTION 12. ORS 480.520 is amended to read:

480.520. The purpose of ORS 480.510 to 480.670 is to protect the safety of the people of Oregon and to protect property situated in Oregon from the hazard of fires and explosions caused by boilers and pressure vessels. To accomplish this purpose the Legislative Assembly intends by ORS 480.510 to 480.670 to provide a system:

(1) For determining where and by whom boilers and pressure vessels are being constructed, installed, repaired, used and operated.

(2) To ensure that only qualified persons do welding on boilers and on pressure vessels.

(3) To ensure that boilers and pressure vessels are manufactured, installed, repaired, operated, inspected and maintained so as to meet the minimum safety standards formulated and promulgated by the Board of Boiler Rules.

(4) For the administration and enforcement of ORS 480.510 to 480.670 by the Department of Consumer and Business Services and the board.

(5) To defray the cost of administration and the cost of enforcing ORS 480.510 to 480.670 by establishing fees to be charged for:

(a) Issuing operating permits;

(b) Issuing [*install, alter or repair*] **installation** permits;

(c) Giving examinations; and

(d) Making inspections.

SECTION 13. ORS 480.525 is amended to read:

480.525. (1) ORS 480.510 to 480.670 do not apply to:

(a) Boilers and pressure vessels under federal safety regulations or control.

(b) Domestic water heaters designed for heating potable water, equipped with an approved pressure-relieving device, containing only water and that do not exceed a:

(A) Capacity of 120 gallons;

(B) Water temperature of 210 degrees Fahrenheit;

(C) Pressure of 150 pounds per square inch gauge pressure; or

(D) Heat input of 200,000 BTU per hour.

(c) Domestic water heaters designed to create hot water instantaneously on demand without the use of a storage tank.

(d) Pressure vessels containing liquefied petroleum gas that are under the jurisdiction of the State Fire Marshal. However, the construction and repair of *[such]* **the** vessels *[shall be in compliance]* **must comply** with ORS 480.510 to 480.670 and *[shall be]* **are** under the jurisdiction of the Board of Boiler Rules.

(e) Air tanks used in the operation of brakes on self-propelled vehicles and trailers that are used for transporting freight or passengers.

(f) Medical sterilizers that do not exceed one and one-half cubic feet in volume.

(g) Pressure vessels that do not exceed one and one-half cubic feet in volume and:

(A) Are not operated at gauge pressure of more than 150 pounds per square inch;

(B) Are equipped with a relief valve;

(C) Are approved under the American Society of Mechanical Engineers code adopted by the board;

(D) Are set at a maximum pressure of 150 pounds per square inch or less; and

(E) Are located in a place of public assembly.

(h) Pressure vessels that do not exceed five cubic feet in volume and:

(A) Are not operated at gauge pressure of more than 150 pounds per square inch;

(B) Are equipped with a relief valve;

(C) Are approved under the American Society of Mechanical Engineers code adopted by the board; and

(D) Are set at a maximum pressure of 150 pounds per square inch or less.

(2) Notwithstanding subsection (1) of this section, if the board, upon presentation of satisfactory evidence, determines that danger to health or safety is evident in any pressure vessel or class of pressure vessels exempted under subsection (1)(g) of this section, the board may require the inspection or reinspection of the pressure vessel or class of pressure vessels and make the pressure vessel or class of pressure vessels subject to the fee, construction or other requirements of ORS 480.510 to 480.670.

(3) The following boilers and pressure vessels are exempt from ORS 480.510 to 480.670, except as to all provisions relating to construction, installation, alteration or repair and to *[the inspection and fees in connection with construction, installation, alteration or repair]* **installation permits:**

(a) Boilers that are not operated at gauge pressures of more than 15 pounds per square inch and that are located on farms and used solely for agricultural purposes except when used in connection with a greenhouse.

(b) Air tanks located on farms and used solely for agricultural purposes.

(c) Boilers and pressure vessels that are located in private residences and may be inspected only by a boiler inspector.

(d) Pressure vessels being operated at gauge pressures of less than 15 pounds per square inch and equipped with a pressure relief device set to open at a pressure that does not exceed the lesser of the pressure vessel's maximum allowed working pressure or 15 pounds per square inch gauge pressure.

(4)(a) Beverage service tanks that have a product volume of five cubic feet or less are exempt from ORS 480.510 to 480.670.

(b) Except as provided in paragraph (c) of this subsection, beverage service tanks that have a product volume of more than five cubic feet are exempt from ORS 480.510 to 480.670, except as to provisions relating to installation permits and installation inspections. The installation permit fee for a beverage service tank is \$50.

(c) All portable beverage tanks are exempt from ORS 480.510 to 480.670.

[(4)] (5) The Director of the Department of Consumer and Business Services may adopt rules identifying boilers and pressure vessels used in single family dwellings or other structures that may be inspected by an inspector certified under ORS 455.715 to 455.740 for a specialty code other than the code adopted under ORS 480.545. The boilers and pressure vessels identified in the rules shall be subject to inspection upon installation, alteration or repair, but be exempt from periodic inspection under ORS 480.560 and from the operating permit requirements of ORS 480.585.

[(5)] (6) Notwithstanding any requirement of ORS 480.510 to 480.670 or the state building code, the Department of Consumer and Business Services may adopt rules granting partial or complete exemption from ORS 480.510 to 480.670 for a boiler or pressure vessel if the board determines that the boiler or pressure vessel does not present a danger to public health or safety within this state.

SECTION 14. ORS 480.560 is amended to read:

480.560. (1) The Board of Boiler Rules shall adopt rules to provide for the inspection of the installation, operation and condition of boilers and pressure vessels that are used or proposed for use in this state and not made exempt from periodic inspection under ORS 480.510 to 480.670.

(2) Pressure piping that is nonboiler external piping, but that excludes potable water nonboiler external piping, shall be inspected on installation only and may not thereafter be considered as part of the boiler for the purposes of any subsequent inspections required by this section. [*Fees for such inspections shall be as provided in ORS 480.605 (1).*]

(3) If a hydrostatic test is necessary to determine the safety of a boiler or pressure vessel, the test shall be made by the owner or user of the boiler or pressure vessel and witnessed by a deputy or special inspector.

(4) All boilers and pressure vessels to be installed in this state shall be inspected during construction:

(a) By an inspector authorized to inspect boilers in this state or authorized under ORS 455.715 to 455.740 to perform inspections of boilers and pressure vessels identified by rule as provided in ORS 480.525 [(4)] (5); or

(b) If constructed outside of the state, by an inspector holding a certificate of competency issued by a state that has a standard of examination substantially equal to that of this state.

SECTION 15. ORS 480.570 is amended to read:

480.570. (1) A special inspector receiving a certificate of competency under ORS 480.565 (3)(b) may not inspect under ORS 480.510 to 480.670 any boiler or pressure vessel not used or not to be used by the employer of the special inspector.

(2) If a special inspector holds a certificate of competency issued under ORS 480.565 (3)(a), the special inspector:

(a) May conduct [*periodic*] shop inspections of boilers and pressure vessels manufactured or to be installed in this state whether or not [*such*] **the** boilers or pressure vessels are insured or will be insured by the employer of the special inspector; and

(b) Upon being notified that the boilers or pressure vessels are ready for inspection, shall perform all installation and operating inspections required under ORS 480.510 to 480.670 on boilers and pressure vessels that are operated or insured by the special inspector's employer.

(3) A boiler contractor licensed under ORS 480.630 that performs an alteration or repair on a boiler or pressure vessel shall utilize the services of:

(a) An authorized inspector certified under this chapter with whom the contractor has an agreement for inspection of the alteration or repair;

(b) A special inspector of an insurance company with which the contractor has an inspection contract; or

(c) A designated inspector who is authorized to inspect the alteration or repair.

(4) A special inspector's certificate of competency remains in force only while the special inspector is continuously employed by one of the persons mentioned in ORS 480.565 (3).

(5) If a boiler or pressure vessel is inspected by a special inspector as provided in this section, the boiler or pressure vessel is subject [*during the inspection period to the special permit fee*] **to the installation permit and operating permit fees** described in ORS 480.600 (2) instead of the **installation permit and operating permit [fee] fees** established under ORS 480.595.

(6) The Department of Consumer and Business Services may cause a deputy inspector to inspect or reinspect all boilers and pressure vessels that a special inspector is authorized or required to inspect. However, the deputy inspector may not conduct an internal inspection or reinspection unless:

(a) There is a question as to whether or not the boiler or pressure vessel meets the minimum safety standards; and

(b) The special inspector who made the original inspection, or the employer of the special inspector, is given reasonable notice and opportunity to be present during the internal inspection or reinspection.

(7) Subsections (1) to (6) of this section do not apply to boilers or pressure vessels located in a residential structure that contains fewer than six dwelling units.

SECTION 16. ORS 480.585 is amended to read:

480.585. *[(1) Any person may apply to the Department of Consumer and Business Services for an operating permit for a boiler or pressure vessel:]*

[(a) By filing reports showing details of the proposed construction before construction is started; or]

[(b) By submitting satisfactory proof that the boiler or pressure vessel has been constructed in accordance with minimum safety standards and has been found to be safe.]

(1) After a boiler or pressure vessel has successfully passed an installation inspection, the Department of Consumer and Business Services may issue a temporary operation authorization. The boiler or pressure vessel covered by the temporary operation authorization may only be operated during the period specified in the temporary operation authorization.

(2) An operating permit for a boiler or pressure vessel shall specify the maximum pressure under which the boiler or pressure vessel may be operated. *[Except as provided by regulation, a permit must be posted in the room containing the boiler or pressure vessel for which the permit is issued.]*

(3) The department may at any time suspend or revoke an operating permit if the department finds that the boiler or pressure vessel, or related appurtenances, for which the permit was issued does not comply with ORS 480.510 to 480.670. Suspension of any permit continues in effect until the vessel conforms to ORS 480.510 to 480.670 and the permit is reissued. However, before suspending or revoking a permit, the department shall first notify the person concerned of the department's intention. The notice must be in writing and advise the person concerned of the right to appeal in writing within 10 days and that the appeal will be heard by the Board of Boiler Rules. If there is a timely appeal, the department may not suspend or revoke the permit pending the appeal unless the reason for suspension or revocation constitutes an immediate menace to health or safety or the person concerned fails to prosecute an appeal with diligence.

(4)(a) Except as provided in ORS 480.510 to 480.670, a person may not operate a boiler or pressure vessel unless a **valid temporary operation authorization** or valid operating permit issued under this section is attached to the boiler or pressure vessel or posted in a conspicuous place in the room where the boiler or pressure vessel is located.

(b) A person may not permit or suffer the operation of a boiler or pressure vessel on property the person owns, controls, manages or supervises unless a **valid temporary operation authorization** or valid operating permit issued under this section is attached to the boiler or pressure vessel or posted in a conspicuous place in the room where the boiler or pressure vessel is located.

(c) The owner or lessee or person having possession of a boiler or pressure vessel may not permit or suffer the operation of the boiler or pressure vessel unless a **valid temporary operation authorization** or valid operating permit issued under this section is attached to the boiler or pressure vessel or posted in a conspicuous place in the room where the boiler or pressure vessel is located.

(5) The board may adopt rules waiving provisions of this section.

SECTION 17. ORS 480.595 is amended to read:

480.595. (1) The Department of Consumer and Business Services may adopt rules *[establishing procedures and requirements regarding operating permits, including but not limited to the term for which an operating permit is valid.]* **regarding installation permits and operating permits. The rules may include, but need not be limited to, rules creating standardized forms, establishing operating permit fees, establishing permit cycles and setting terms and conditions for permit validity.**

(2) Upon timely receipt of an installation permit fee, the department may issue an installation permit, perform an installation inspection and issue a temporary operating authorization.

[(2)] (3) Upon timely receipt of an operating permit fee, the department may issue or renew an operating permit and may perform a periodic inspection if required during the operating permit cycle.

[(3)] *Operating permit fees shall be prescribed by the Board of Boiler Rules with approval of the Oregon Department of Administrative Services, and may be prorated.*]

(4) Except as provided in ORS 480.525 and 480.600, installation permit fees are as follows:

(a) For boilers, \$175.

(b) For pressure vessels, \$125.

[(4)] (5) Except as provided in ORS 480.600, maximum operating permit fees [shall be determined] per year are as follows:

- [(a)] *Boilers of 15 horsepower or less* \$ 65
- [(b)] *Boilers greater than 15 horsepower to 100 horsepower* \$ 85
- [(c)] *Boilers greater than 100 horsepower to 500 horsepower* \$100
- [(d)] *Boilers greater than 500 horsepower* \$110
- [(e)] *Cast iron boilers* \$ 65
- [(f)] *Pressure vessels having a product volume of 20 cubic feet or less* \$ 55
- [(g)] *Pressure vessels having a product volume greater than 20 cubic feet* \$ 75]
- (a) **Power boilers of 15 horsepower or less** \$110
- (b) **Other boilers of 15 horsepower or less** \$ 55
- (c) **Power boilers greater than 15 horsepower to 100 horsepower** \$110
- (d) **Other boilers greater than 15 horsepower to 100 horsepower** \$ 55
- (e) **Power boilers greater than 100 horsepower to 500 horsepower** \$110
- (f) **Other boilers greater than 100 horsepower to 500 horsepower** \$ 55
- (g) **Power boilers greater than 500 horsepower** \$110
- (h) **Other boilers greater than 500 horsepower** \$ 55
- (i) **Notwithstanding paragraphs (a) to (h) of this subsection, all cast iron boilers** \$ 55
- (j) **Pressure vessels having a product volume of 20 cubic feet or less** \$ 50
- (k) **Pressure vessels having a product volume**

greater than 20 cubic feet \$ 50

[(5) A reinspection fee shall be charged at the maximum rate of \$60 per hour for travel and inspection time to defray the cost of a reinspection when deviations from the minimum safety standards are found during any inspection.]

(6) For a reinspection, the fee is \$75.

(7) For the submission of plans and other pertinent data when required, for each boiler or pressure vessel, the fee is \$78.

SECTION 18. ORS 480.600 is amended to read:

480.600. [(1) The operating permit fee established under ORS 480.510 to 480.670, for a quantity of boilers or pressure vessels available for inspection at the same location, shall be fixed by the Board of Boiler Rules at cost, in accordance with the time required to conduct the inspection and the inspector's mileage to the place of inspection. The operating permit fee charged for a quantity of boilers or pressure vessels available for inspection at the same location may not exceed the total amount that would be charged for individual boiler or pressure vessel operating permit fees under ORS 480.510 to 480.670.]

(1) For a quantity of boilers or pressure vessels operated at the same locations, each operating permit fee under ORS 480.595 issued at the same location is \$75.

[(2)(a) Notwithstanding ORS 480.595, except as provided in this subsection, the owner or user of any boiler or pressure vessel that is to be inspected under ORS 480.570 (1) or (2) during the inspection period shall pay to the Department of Consumer and Business Services a special permit fee of \$25. However, the department may require payment of an operating permit fee as provided in ORS 480.595 if the department finds the boiler or pressure vessel to be in violation of the minimum safety standards during the inspection period].

[(b) For a quantity of boilers or pressure vessels inspected at the same location, the board may establish a different special permit fee that recognizes the lower costs of handling. The special permit fee charged for a quantity of boilers or pressure vessels inspected at the same location may not exceed the total amount that would be charged for individual boiler or pressure vessel special permit fees under paragraph (a) of this subsection.]

(2) Notwithstanding ORS 480.595 and except as provided in this subsection, the installing, altering or repairing contractor or the owner or user of any boiler or pressure vessel that is inspected under ORS 480.570 (1) or (2) shall pay an installation permit fee of \$40 and an operating permit fee of \$40. The Department of Consumer and Business Services may establish operating permit cycles by rule. The department may require payment of an installation or operating permit fee as provided in ORS 480.595 if the department finds that the boiler or pressure vessel is in violation of the minimum safety standards.

(3) If an insurance company notifies its insured that the insurance company will no longer insure a boiler or pressure vessel, or that insurance on a boiler or pressure vessel is no longer in force, the insurance company shall also notify the chief boiler inspector, in a form and manner prescribed by the chief boiler inspector, of the description and vessel registration numbers of the boilers or pressure vessels for which insurance is canceled or suspended or is not to be renewed.

(4) If an owner or user of a boiler or pressure vessel fails to pay any fee required by this chapter within [60 days after the date of depositing written notification in the United States mail, postage prepaid, and addressed to the last-known address of the owner or user, the fee is delinquent and shall be increased by an amount equal to 50 percent of the original fee.] 90 days after the billing date, the department may consider the fee delinquent and double the amount of the fee. The court may award reasonable attorney fees to the department if the department prevails in an action to collect a fee required by this chapter. The court may award reasonable attorney fees to a defendant who prevails in an action to collect a fee required by this chapter if the court determines that the department had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

SECTION 19. ORS 480.605 is amended to read:

480.605. The Department of Consumer and Business Services may:

(1) Collect fees for shop inspections, **or for inspections, testing, consultations, site visits or other services for which no fee is otherwise specified, in the amount of \$75 per hour of travel and inspection time.** [*inspections of vessels and for inspection of vessels which have been changed in installation location after primary use and for any other type of inspection of boilers, pressure vessels or pressure piping which may be required by any person or persons, including any governmental units, all such inspections to be at the cost of inspection, in accordance with the time required to make the inspection, plus the expense of the inspector including lodging and travel. The hourly charge, or portion thereof, shall be fixed by the Board of Boiler Rules.*]

(2) Collect a fee for welding and inspectors' examinations and for the renewal of inspectors' certifications. The **Board of Boiler Rules shall fix** amount of the fee [*shall be fixed by the board*].

[(3) *Collect an additional fee from the owner or user when it is necessary to make a special trip to witness the application of a hydrostatic or other test. The amount of the fee shall be fixed by the board.*]

SECTION 20. ORS 480.615 is amended to read:

480.615. (1) The Board of Boiler Rules shall hear the appeal of an appellant who:

(a) Has filed a timely written request and:

(A) Has received notice that a restraining order or injunction will be sought;

(B) Has received notice that an **installation permit or** operating permit will be suspended or revoked; or

(C) Is affected by either of such notices; or

(b) Has filed a written request and who has reason to desire a change in the minimum safety standards or the rules.

(2) The board shall set the time and place for hearing and give the appellant 10 days' written notice.

(3) [*All appeals shall be heard*] **The board shall hear an appeal** within three months [*of*] **after** receipt of the request. [*unless*] **However, if** an immediate menace to health or safety is involved, [*in which case the appeal shall be heard*] **the board shall hear the appeal** within 20 days [*of*] **after** receipt of the request.

(4)(a) Two or more appeals may be consolidated for hearing, if based upon substantially the same facts.

(b) The board and the appellant may subpoena witnesses, who shall receive the same compensation and mileage pay as circuit court witnesses.

(c) **The board shall keep** a written or recorded record [*shall be kept*].

SECTION 21. ORS 480.630 is amended to read:

480.630. (1) A person engaging in the business of installing, repairing or altering boilers or pressure vessels must possess a boiler contractor license issued by the Department of Consumer and Business Services.

(2) A person who installs, repairs or alters boilers or pressure vessels as the employee or agent of a business engaged in the installation, repair or alteration of boilers or pressure vessels must possess an employee or agent license issued by the department.

(3) The chief boiler inspector may conduct examinations for licensing an employee or agent of a business to establish the competency of the applicant.

(4) Upon payment of the applicable application fee, the department shall issue a license to an applicant who qualifies as provided in rules adopted under ORS 455.117 by the Board of Boiler Rules. Upon payment of the applicable renewal application fee, the department shall renew the license of a person who complies with ORS 480.510 to 480.670 and the rules adopted by the board under ORS 455.117 or 480.545. The fee to apply for or renew a license is:

(a) [*\$25*] **\$27.50** per year for an employee or agent license.

(b) [*\$150*] **\$165** per year for a boiler contractor license.

(5) A person required to be licensed under this section may not install, alter or repair a boiler or pressure vessel unless an [*install, alter or repair*] **installation permit** is first secured from the department. **The department shall issue** permits [*shall be issued*] only to persons possessing a valid

boiler contractor license or as provided by the department by rule. [*An install, alter or repair permit fee of \$15 shall be paid directly to the department.*]

(6) If an emergency exists, a permit under subsection (5) of this section is not required in advance for boiler or pressure vessel installations or repair, provided that an application accompanied by the appropriate fee for the permit is submitted to the department within five days after the commencing of the boiler or pressure vessel work.

(7) The license and examination requirements of this section and ORS 480.632 do not apply when a person is brought in from out of state to repair or alter a boiler or pressure vessel utilizing special tools or a special process for which that person is uniquely qualified. The activity shall be limited solely to the special process and the person performing the work shall have qualifications that meet or exceed license standards as determined by the chief boiler inspector. The chief boiler inspector shall be notified prior to performance of any work under this subsection.

(8) If a license issued under subsection (4) of this section is of a class that authorizes a person to perform work equivalent to that performed by pressure vessel installers, building service mechanics, boilermakers or pressure piping mechanics, the person must comply with continuing education requirements.

SECTION 22. ORS 480.647 is amended to read:

480.647. (1) The Board of Boiler Rules may adopt rules creating quality control procedures for welding on nonboiler external piping and may adopt its own Oregon welded stamp symbol.

(2) The board [*shall*] **may** not require the adoption of “R” stamp provisions of the National Board of [*Inspection Code*] **Boiler and Pressure Vessel Inspectors** or the American Society of Mechanical Engineers Certification of Authorization requirements related to boilers for welding on nonboiler external piping.

(3) The board shall accept an “R” stamp [*certification*] **certificate of authorization** by the National Board of [*Inspection Code*] **Boiler and Pressure Vessel Inspectors** or the American Society of Mechanical Engineers [*Certification of Authorization*] as meeting the requirements of subsection (1) of this section and may accept any other quality control program for welding that is at least equivalent to the Oregon quality control procedures adopted under subsection (1) of this section.

(4) All review by the Department of Consumer and Business Services for individual approval of quality control procedures and requirements shall be charged at the shop inspection rates under ORS 480.605.

SECTION 23. ORS 455.148 is amended to read:

455.148. (1)(a) A municipality that assumes the administration and enforcement of a building inspection program shall administer and enforce the program for all of the following:

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection.

(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.

(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.

(D) Park and camp programs regulated under ORS 455.680.

(E) Tourist facilities regulated under ORS 446.310 to 446.350.

(F) Manufactured dwelling alterations regulated under ORS 446.155.

(G) Manufactured structure accessory buildings and structures under ORS 446.253.

(H) Boilers and pressure vessels described in rules adopted under ORS 480.525 [(4)] (5).

(b) A building inspection program of a municipality may not include:

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described in rules adopted under ORS 480.525 [(4)] (5);

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.370;

(D) Prefabricated structure regulation under ORS chapter 455;

(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety

standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;

(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; or

(G) Review of plans and specifications as provided in ORS 455.685.

(2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.

(4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if the municipality is not a county, notify the county whether the municipality will continue to administer and enforce the building inspection program after expiration of the four-year period.

(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.

(5) If a city does not notify the director, or notifies the director that it will not administer the building inspection program, the county or counties in which the city is located shall administer and enforce the county program within the city in the same manner as the program is administered and enforced outside the city, except as provided by subsection (6) of this section.

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce a building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce a building inspection program, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying the expenses thereof. A state employee may not be displaced as a result of using contract personnel.

(7)(a) The governing body of a municipality may commence responsibility for the administration and enforcement of a building inspection program beginning July 1 of any year by notifying the director no later than January 1 of the same year and obtaining the director's approval of an assumption plan as described in subsection (11)(c) of this section.

(b) Notwithstanding paragraph (a) of this subsection, a municipality may not assume responsibility for administering and enforcing a building inspection program within the municipality unless:

(A) Prior to the assumption, the municipality is subject to ORS 455.150; or

(B) Responsibility for the program is being assumed from the department.

(8) The department shall adopt rules to require the governing body of each municipality assuming or continuing a building inspection program under this section to submit a written plan with the notice required under subsection (4) or (7) of this section. If the department is the governing body, the department shall have a plan on file. The plan must specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers and enforces a building inspection program pursuant to this section shall recognize and accept the performances of state building code activities by businesses

and persons authorized under ORS 455.457 to perform the activities as if the activities were performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs that municipalities assume on or after January 1, 2002. Regulation under this subsection shall include but not be limited to:

(a) Creating building inspection program application and amendment requirements and procedures;

(b) Granting or denying applications for building inspection program authority and amendments;

(c) Requiring a municipality assuming a building inspection program to submit with the notice given under subsection (7) of this section an assumption plan that includes, at a minimum:

(A) A description of the intended availability of program services, including proposed service agreements for carrying out the program during at least the first two years;

(B) Demonstration of the ability and intent to provide building inspection program services for at least two years;

(C) An estimate of proposed permit revenue and program operating expenses;

(D) Proposed staffing levels; and

(E) Proposed service levels;

(d) Reviewing procedures and program operations of municipalities;

(e) Creating standards for efficient, effective, timely and acceptable building inspection programs;

(f) Creating standards for justifying increases in building inspection program fees adopted by a municipality;

(g) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program throughout a county, if another municipality is allowed to provide a building inspection program within the same county; and

(h) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

(a) During the pendency of activities under ORS 455.770;

(b) If a municipality abandons or is no longer able to administer the building inspection program; and

(c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) A municipality that abandons or otherwise ceases to administer a building inspection program that the municipality assumed under this section may not resume the administration or enforcement of the program for at least two years. The municipality may resume the administration and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to resuming the administration and enforcement of the program, the municipality must follow the notification procedure set forth in subsection (7) of this section.

SECTION 24. ORS 455.148, as amended by section 5, chapter 549, Oregon Laws 2007, is amended to read:

455.148. (1)(a) A municipality that assumes the administration and enforcement of a building inspection program shall administer and enforce the program for all of the following:

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection.

(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.

(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.

(D) Park and camp programs regulated under ORS 455.680.

- (E) Tourist facilities regulated under ORS 446.310 to 446.350.
 - (F) Manufactured dwelling alterations regulated under ORS 446.155.
 - (G) Manufactured structure accessory buildings and structures under ORS 446.253.
 - (H) Boilers and pressure vessels described in rules adopted under ORS 480.525 [(4)] (5).
- (b) A building inspection program of a municipality may not include:
- (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described in rules adopted under ORS 480.525 [(4)] (5);
 - (B) Elevator programs under ORS 460.005 to 460.175;
 - (C) Amusement ride regulation under ORS 460.310 to 460.370;
 - (D) Prefabricated structure regulation under ORS chapter 455;
 - (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;
 - (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; or
 - (G) Review of plans and specifications as provided in ORS 455.685.
- (2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.
- (3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.
- (4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if the municipality is not a county, notify the county whether the municipality will continue to administer and enforce the building inspection program after expiration of the four-year period.
- (b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.
- (5) If a city does not notify the director, or notifies the director that it will not administer the building inspection program, the county or counties in which the city is located shall administer and enforce the county program within the city in the same manner as the program is administered and enforced outside the city, except as provided by subsection (6) of this section.
- (6) If a county does not notify the director, or notifies the director that it will not administer and enforce a building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce a building inspection program, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying the expenses thereof. A state employee may not be displaced as a result of using contract personnel.
- (7) The governing body of a municipality may commence responsibility for the administration and enforcement of a building inspection program beginning July 1 of any year by notifying the director no later than January 1 of the same year and obtaining the director's approval of an assumption plan as described in subsection (11)(c) of this section.

(8) The department shall adopt rules to require the governing body of each municipality assuming or continuing a building inspection program under this section to submit a written plan with the notice required under subsection (4) or (7) of this section. If the department is the governing body, the department shall have a plan on file. The plan must specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers and enforces a building inspection program pursuant to this section shall recognize and accept the performances of state building code activities by businesses and persons authorized under ORS 455.457 to perform the activities as if the activities were performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs that municipalities assume on or after January 1, 2002. Regulation under this subsection shall include but not be limited to:

(a) Creating building inspection program application and amendment requirements and procedures;

(b) Granting or denying applications for building inspection program authority and amendments;

(c) Requiring a municipality assuming a building inspection program to submit with the notice given under subsection (7) of this section an assumption plan that includes, at a minimum:

(A) A description of the intended availability of program services, including proposed service agreements for carrying out the program during at least the first two years;

(B) Demonstration of the ability and intent to provide building inspection program services for at least two years;

(C) An estimate of proposed permit revenue and program operating expenses;

(D) Proposed staffing levels; and

(E) Proposed service levels;

(d) Reviewing procedures and program operations of municipalities;

(e) Creating standards for efficient, effective, timely and acceptable building inspection programs;

(f) Creating standards for justifying increases in building inspection program fees adopted by a municipality;

(g) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program throughout a county, if another municipality is allowed to provide a building inspection program within the same county; and

(h) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

(a) During the pendency of activities under ORS 455.770;

(b) If a municipality abandons or is no longer able to administer the building inspection program; and

(c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) A municipality that abandons or otherwise ceases to administer a building inspection program that the municipality assumed under this section may not resume the administration or enforcement of the program for at least two years. The municipality may resume the administration and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to resuming the administration and enforcement of the program, the municipality must follow the notification procedure set forth in subsection (7) of this section.

SECTION 25. ORS 455.150 is amended to read:

455.150. (1) Except as provided in subsection (14) of this section, a municipality that assumes the administration and enforcement of a building inspection program prior to January 1, 2002, may administer and enforce all or part of a building inspection program. A building inspection program:

(a) Is a program that includes the following:

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection.

(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.

(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.

(D) Park and camp programs regulated under ORS 455.680.

(E) Tourist facilities regulated under ORS 446.310 to 446.350.

(F) Manufactured dwelling alterations regulated under ORS 446.155.

(G) Manufactured structure accessory buildings and structures under ORS 446.253.

(H) Boilers and pressure vessels described in rules adopted under ORS 480.525 [(4)] (5).

(b) Is not a program that includes:

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described in rules adopted under ORS 480.525 [(4)] (5);

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.370;

(D) Prefabricated structure regulation under ORS chapter 455;

(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;

(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; and

(G) Review of plans and specifications as provided in ORS 455.685.

(2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program or parts thereof, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.

(4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if not a county, notify the county whether the municipality will continue to administer the building inspection program, or parts thereof, after expiration of the four-year period. If parts of a building inspection program are to be administered and enforced by a municipality, the parts shall correspond to a classification designated by the director as reasonable divisions of work.

(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.

(5) If a city does not notify the director, or notifies the director that it will not administer certain specialty codes or parts thereof under the building inspection program, the county or counties in which the city is located shall administer and enforce those codes or parts thereof within the city

in the same manner as it administers and enforces them outside the city, except as provided by subsection (6) of this section.

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce certain specialty codes or parts thereof under the building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce those codes or parts thereof, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying such expenses. A state employee may not be displaced as a result of using contract personnel.

(7) If a municipality administering a building inspection program under this section seeks to administer additional parts of a program, the municipality must comply with ORS 455.148, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this section.

(8) The department shall adopt rules to require the governing body of each municipality to submit a written plan with the notice required under subsection (4) of this section. If the department is the governing body, the department shall have a plan on file. The plan shall specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers a code for which persons or businesses are authorized under ORS 455.457 to perform activities shall recognize and accept those activities as if performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs of municipalities assumed prior to January 1, 2002. Regulation under this subsection shall include but not be limited to:

- (a) Creating building inspection program application and amendment requirements and procedures;
- (b) Granting or denying applications for building inspection program authority and amendments;
- (c) Reviewing procedures and program operations of municipalities;
- (d) Creating standards for efficient, effective, timely and acceptable building inspection programs;
- (e) Creating standards for justifying increases in building inspection program fees adopted by a municipality;
- (f) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program or part of the program throughout a county, if another municipality is allowed to provide a building inspection program or part of a program within the same county; and
- (g) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

- (a) During the pendency of activities under ORS 455.770;
- (b) If a municipality abandons any part of the building inspection program or is no longer able to administer the building inspection program; and
- (c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) If a municipality abandons or otherwise ceases to administer all or part of a building inspection program described in this section, the municipality may not resume the administration and enforcement of the abandoned program or part of a program for at least two years. The municipality

may resume the administration and enforcement of the abandoned program or part of a program only on July 1 of an odd-numbered year. To resume the administration and enforcement of the abandoned program or part of a program, the municipality must comply with ORS 455.148, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this section.

(14) A municipality that administers and enforces a building inspection program under this section shall include in the program the inspection of boilers and pressure vessels described in subsection (1)(a)(H) of this section.

SECTION 26. ORS 460.048 and 480.607 are repealed.

SECTION 27. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1, chapter 194, Oregon Laws 2009 (Enrolled Senate Bill 5513), for the biennium beginning July 1, 2009, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, and including specified federal funds, but excluding lottery funds, collected or received by the Department of Consumer and Business Services, is increased by \$493,534 for the purpose of restoring three boiler inspector positions.

SECTION 28. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on July 1, 2009.

Passed by House June 15, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 23, 2009

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President of Senate

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State